

3/12/2022

Requesting clarity on the process for making changes to West Linn's adopted Master Plans which are part of our adopted Comprehensive Plan

From: Teri Cummings

To: Planning Commission Chair Gary Walvatne, I am writing to ask about the process of making changes or addendums to adopted Master Plans and to share information that appears to indicate that recent proposals to make changes to West Linn's 2016 Transportation System Plan (TSP) is possibly out of compliance with ORS 197- Comprehensive Planning and/or West Linn's CDC Chapters 100 and 98. (Text of interest in bold)

West Linn has invested a significant amount of time and money over the years to engage community members in its Comprehensive Planning processes in keeping with [Oregon's Land Use Goal 1: Citizen Involvement](#).

The integrity of the planning process is very dear to me because my husband Cary and I participated in the Imagine West Linn visioning process shortly after we brought our family here in 1992. Finding time to do it was not easy because our children were very young and the process took about two years. Next, I was appointed to the West Linn Tomorrow Task Force, another two year process that culminated in a Transportation System Plan and a Comprehensive Plan update in 2000. Then, after undergoing an extensive community engagement process, I was honored and relieved to complete West Linn's 2003 Comprehensive Plan as Chair of the Planning Commission.

Over the years, I continued to participate in every Master Plan addendum to the Comprehensive Plan as a member of the community and as a City Councilor, including the 2016 Transportation Plan (TSP) and the 2019 Parks Master Plan. I am but one of the hundreds and possibly thousands of people who, over the years, completely trusted that the time and efforts they volunteered to West Linn's Comprehensive Planning processes would be valued and respected. My need and more importantly, the public's need for Trust in the planning process is at stake.

As I mentioned before, I am worried that the process undertaken to add the [Willamette Falls Drive \(WFD\) Conceptual Design Plan](#) to [The 2016 TSP](#), seemed to be unusually rushed and haphazard. ([Feb. 10 2022 letter to City Council](#))

Thus, I am curious to know if the WFD Conceptual Design Plan would be found to be in compliance with [ORS 197](#) and [West Linn CDC- Chapter 100 Comprehensive Plan amendment criteria](#) if it was reviewed by the Department of Land Conservation and Development (DLCD) or West Linn's CCI.

I have a need for clarity as to why staff appears to be using two different procedures to propose changes to the 2016 TSP plan. The first method utilized the WFD Conceptual Design Plan amendment process to change the 2016 TSP. The second method involves placing an item

on the City Council agenda to approve a contract, thus somehow approving changes to the 10th Street Interchange area of the 2016 TSP without undergoing the usual public involvement process required in CDC Chapter 100 or 98.

I need to know if West Linn notified DLCD, according ORS 197.612, that West Linn planned to propose changes to West Linn's adopted 2016 TSP regarding the 10th Street corridor area? If so, when was the notice sent? If not, what remedy is available?

Thank you in advance for reading this.

Best regards,

Teri Cummings

West Linn's currently adopted design for the 10th Street Interchange area is summarized on page 91 of the adopted [2016 TSP](#) as follows:

"The following provides a summary of the improvements identified by the City and ODOT for the 10th Street Interchange Area.

Widen 10th Street between the I-205 NB Ramps and the I-205 SB Ramps to provide two through lanes in each direction. This allows for one left-turn lane and one continuous through lane in both directions between the ramps (the left-turn lanes between the ramps would be side-by-side instead of back-to-back allowing for twice the amount of queue storage)

Widening of 10th Street under the I-205 bridges may be possible without complete bridge reconstruction through the use of retaining walls or minor modifications to the bridge structures."

At the [January 22, 2020 Transportation Advisory Board](#) meeting, Mr. Calvert reported; "The 10th St. corridor is still in design." TAB did not meet again after that until after Mr. Calvert gave a brief 10th Street corridor power point presentation at the [Sept. 21, 2020 Council work session](#). TAB had its second meeting of the year on [Sept. 23, 2020](#). Unfortunately, the link to the "[Draft Willamette Drive Concept Plan](#)" on the agenda doesn't work. The written minutes do not indicate whether adding a roundabout to Willamette Falls drive next to Fields Bridge or to the 10th Street corridor was discussed. Five TAB members and no public members attended the Sept. 23 meeting. A lack of public participation in TAB meetings is not unusual.

The new "[10th street Interchange Project](#)" is located on page 4 of Public Works Director Calvert's power point presentation at the [March 7, 2022 Council work session](#) . The proposal includes two roundabouts in the 10th St. Interchange corridor area.

Was a notice sent to DLCD and other required recipients to embark on a process to change the 10th St. Interchange area in the adopted 2016 TSP per ORS 197 and West Linn CDC Chapt. 100 and 98?

Oregon's Comprehensive Land Use Planning Process

Note: According to **ORS 197.615** changes to Comprehensive Plans are only allowed to be made without a public hearing if such changes are "solely " to conform with new requirements ect. If adding roundabouts to 10th street corridor is not related to a "new requirement," a public hearing process appears to be required by law.

https://oregon.public.law/statutes/ors_197.615

ORS 197.612

Comprehensive plan or land use regulation changes to conform plan or regulations to new requirement in statute, goal or rule

*(1)Notwithstanding contrary provisions of state and local law, a local government that proposes a change to an acknowledged comprehensive plan or a land use regulation **solely for the purpose of conforming the plan and regulations to new requirements in a land use statute, statewide land use planning goal or rule** of the Land Conservation and Development Commission implementing the statutes or goals may take action to change the comprehensive plan or the land use regulation **without holding a public hearing if:***

*(a)The local government gives notice to the Department of Land Conservation and Development of the proposed change in the manner provided by ORS 197.610 (Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development) and 197.615 (Submission of adopted comprehensive plan or land use regulation changes to **Department of Land Conservation and Development**); and*

(b)The department confirms in writing that the only effect of the proposed change is to conform the comprehensive plan or the land use regulations to the new requirements.

Who are our DLCD representatives?

The DLCD representative for West Linn is Laura Kelly, laura.kelly@dlcd.oregon.gov 503-798-7587

DLCD Commission Chair, Robin McArthur, represents Metro area robin.mcarthur@dlcd.oregon.gov

West Linn's Comprehensive Plan Process

Note: West Linn CDC Chapter 100 refers to Chapter 98 Legislative decisions, which include noticing NAs and holding at least one PC hearing and one CC hearing to adopt or amend supporting plans. This process was used for the somewhat haphazardly produced Willamette Falls Drive Concept Plan (WFD). It appears a Comprehensive Plan process to amend the 10th

street corridor area of the 2016 TSP to include roundabouts at each end was overlooked. It would help to know if DLCD was noticed and if notice and community engagement per Chapter 98 has been done. The Public Works Director's comments at the March 7, 2022 CC work session indicated that there is no need for a public hearing to approve plans for the 10th street corridor area that differ from the 2016 TSP.

According to Public records obtained, (See attached Feb. 10, 2022 letter) ODOT officials noticed that West Linn departed from the 2016 TSP plan and did not have an amended plan or addendum that includes roundabouts at each end of the 10th street interchange area. Public records also indicate that Mr. Calvert, City staff and consultants discussed possibly adding 10th street area to the WFD Concept Plan but apparently decided not to.

[West Linn CDC- Comprehensive Plan Chapter 100](#)

PROCEDURES FOR ADOPTION OR AMENDMENT OF SUPPORTING PLANS

Sections:

100.010 DEFINITION

For the purposes of this chapter, "supporting plan" means any public facilities system or master plan or program that is a supporting document to the Comprehensive Plan. Supporting plans include, but are not limited to, any master parks plan, public facilities plan, capital improvement program, water system plan, drainage master plan, and transportation funding program.

100.020 SCOPE -This chapter establishes **procedures for amendment or adoption of supporting plans.**

100.030 INITIATION OF PROCESS- The procedure for adopting or amending supporting plans **may be initiated by the City Council, the Planning Commission,** or the Planning Director.

100.050 PROCESS- The Planning Commission shall hold at least one public hearing and shall make a recommendation to the City Council. The City Council shall hold at least one public hearing before adopting or amending any supporting plan. The City Council shall adopt any amendments or new supporting plan by resolution, but may deny a requested amendment or supporting plan by motion.

100.070 NOTICE- Notice shall be given in a newspaper of general circulation in the City at least 10 days prior to the initial hearing of the Planning Commission and at least 10 days prior to the initial hearing of the City Council.

100.090 ADDITIONAL PROCEDURES- The procedures set forth in CDC 98.090, 98.110, 98.120, 98.130, and 98.150 shall apply.

[Chapter 98](#)

PROCEDURES FOR DECISION MAKING: LEGISLATIVE

98.010 PURPOSE

The purpose of this chapter is to establish procedures applicable to this code for the consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps. The procedures of this chapter are not required for adopting or amending Comprehensive Plan supporting documents which are not provisions of the plan. Plans that are supporting documents shall be adopted pursuant to the procedures set forth in Chapter 100 CDC. (Ord. 1434, 1999)

98.030 DOCKET

98.035 CITIZEN ENGAGEMENT IN LEGISLATIVE CHANGES

98.040 DUTIES OF DIRECTOR

98.050 RECOMMENDATION AND ALTERNATIVE RECOMMENDATION BY DIRECTOR

98.060 CONSOLIDATION OF PROCEEDINGS

98.070 PUBLIC HEARINGS – NOTICE

A. The Planning Commission shall hold at least one public hearing;

B. The City Council shall hold at least one public hearing;

C. Legislative notice, where there is a proposal to amend the Comprehensive Plan or to amend or to adopt new land use regulations of this development code, shall be effected as follows:

1. At least 10 days prior to the scheduled hearing date notice shall be sent to:

a. Any affected governmental agency, including the Oregon Department of Transportation, Metro, and Tri-Met.

b. **Affected recognized neighborhood associations or citizens advisory committees;** and

c. Any person who requests such notification in writing.

2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.

3. At least 10 days but no more than 40 days prior to hearing of a proposed zone change for manufactured home parks, notice shall be given to the respective manufactured home park residents.

4. Notice shall be forwarded to the Director of the Department of Land Conservation and Development (DLCD) in a format and at a time required by Oregon Revised Statutes and Oregon Administrative Rules governing such notification.

5. If the Planning Director determines that the proposed change requires notice pursuant to ORS 227.186, the Planning Director shall provide such notice. The Planning Commission shall review the determination of the Planning Director and shall order additional notice as appropriate.

6. The City should make reasonable efforts to post notice of the proposal on the City's website at least 20 days prior to the hearing or meeting. Failure to comply with this section is not a procedural defect entitling any party to a delay in the hearing process.

98.080 MECHANICS OF GIVING NOTICE, FAILURE TO GIVE NOTICE, COMPUTATION OF NOTICE PERIOD

98.090 CONTINUATION OF HEARING

98.100 STANDARDS FOR DECISION

98.110 APPROVAL PROCESS AND AUTHORITY

98.120 HEARINGS PROCEDURES

98.130 VOTE REQUIRED FOR LEGISLATIVE CHANGE

98.140 FINAL DECISION

98.150 RECORD OF HEARING

98.160 REINITIATION